

## SECOND DIVISION

[ G.R. No. 108616, June 19, 1997 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RODOLFO PATAWARAN, ACCUSED-APPELLANT.**

### DECISION

**TORRES, JR., J.:**

The accused Rodolfo Patawaran appeals from the October 5, 1992 Decision<sup>[1]</sup> of the Regional Trial Court of Capas, Tarlac, Branch 66, Third Judicial Region, finding him guilty of the crime of Murder, and sentencing him to suffer the penalty of reclusion perpetua, and also ordering him to indemnify the family of the deceased compensatory damages and attorney's fees.

The dispositive portion of the trial court's decision reads:

"PREMISES CONSIDERED, judgment is hereby rendered finding the accused Rodolfo Patawaran guilty beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua; ordering him to indemnify the heirs of the deceased, Martin Panlican the sum of P50,000.00; and to pay P724,500.00 as compensatory damages for the loss of earning capacity of the deceased, P30,000.00 as attorney's fees, and to pay the proportionate costs.

The accused shall be given full credit for the period of his preventive imprisonment after compliance with Article 29 of the Revised Penal Code.

SO ORDERED."

The accused, a former member of the Civilian Home Defence Force (CHDF) of Tarlac, is being held to answer for the January 3, 1986 killing of the deceased Martin Panlican, a farmer and overseer of sugarcane and rice crops. The charges are contained in the information filed with the trial court on September 9, 1996, as follows:

"The undersigned Provincial Fiscal, upon a preliminary investigation conducted in accordance with P.D. No. 911 as amended by Batas Pambansa Bilang 129 and further amended by the New Rules on Criminal Procedure by the 2nd Municipal Circuit Trial Court of Bamban-Capas-Concepcion, Tarlac, accuses Rodolfo Patawaran of Barangay Pacalcal, Bamban, Tarlac, together with one John Doe whose identity and whereabouts is still unknown, of the crime of Murder, committed as follows:

That on or about January 3, 1986, in the Municipality of Bamban, Province of Tarlac, Philippines and within the jurisdiction of this Honorable

Court, the above-named accused conspiring, confederating and helping with one another, did then and there with intent to kill, with treachery and evident premeditation and with deliberate intent to take the life of Martin Panlican, did then and there willfully, unlawfully, feloniously, suddenly and unexpectedly fired at the latter with an armalite rifle inflicting upon him mortal wounds which caused his instantaneous death.

Contrary to law."<sup>[2]</sup>

After the accused pleaded not guilty upon arraignment, trial on the merits ensued with the presentation of the prosecution's witnesses; Jose Ortiz, Engracio Dingle, Alberto Arellano, Dr. Roberto SJ Cecilio, Technical Sergeant Romeo Ibalio, Alegria Rosal Panlican and SPO3 Arsenio Presto.

For the defense, the following were called to testify; the accused himself, his father Conrado Patawaran, Sgt. Daniel Romero of the Philippine Constabulary, and Arsenio Sibal.

Presented as rebuttal and sur-rebuttal witnesses were Provincial Warden Capt. Eduardo Timbol and Marcelino Patawaran, respectively.

Jose Ortiz, who cut sugarcane for the accused, testified that he went looking for the deceased Martin Panlican on January 3, 1996, having been hired to cut sugarcane for him. When he could not find him, Ortiz went home, taking the road linking the main highway with Barangay Pacalcal, Bamban, Tarlac. While on his way home that evening he was beckoned by nature, and while answering its call by the "talahib" beside the road, he heard the motorcycle being driven by Martin Panlican drive by. Thus, he finished his occupation and went after Panlican, calling his name. The latter, however, did not hear him. Thereafter, he saw the deceased stop his motorcycle near the railroad tracks and argue with the accused Rodolfo Patawaran who was carrying an armalite rifle. When the latter told Panlican to alight, he refused and began to restart his motorcycle. It was then that the witness saw the accused hit Panlican on the right shoulder with the armalite rifle. Thereafter, the accused shot the deceased and Panlican dropped to the ground, dead. Another man emerged from the "talahib" growing beside the road, and shot at the deceased, also with an armalite rifle, to make sure that he was dead. Upon witnessing this, Jose Ortiz hid in a culvert and stayed there for an hour before resuming his trek to Pacalcal.<sup>[3]</sup>

To corroborate Ortiz's testimony, Engracio Dingle was presented, and testified that he encountered the accused carrying an armalite rifle also near the railroad tracks along the road connecting Pacalcal and the main highway, at about the same time Jose Ortiz saw the accused kill Martin Panlican.<sup>[4]</sup> Alberto Arellano, the head of the CHDF of the area, testified that the accused reported to the CHDF post at around 10:00 in the evening with his pants wet and with muddy shoes.<sup>[5]</sup>

For his defense, accused Rodolfo Patawaran claims that he spent the whole day of January 3, 1986 with his father Conrado Patawaran who was detained at Camp Makabulos in Tarlac under charges of Murder. Upon his father's request, he went to see his lawyer to have his father taken home, as the old man was feeling ill. He also went to see Governor Federico Peralta at around 10:00 in the morning also to

arrange for his father's temporary release. Thereafter, he returned to his father's side, and allegedly stayed there until around 8:30 in the evening when he went home.<sup>[6]</sup>

After trial, the trial court rendered its judgment on October 5, 1992, finding the accused guilty of Murder qualified by treachery and with evident premeditation. The trial court found the prosecution's case to be formidable as against the accused's defense of alibi, which was wrought with several gross inconsistencies in the testimonies of the accused and his father, thereby discrediting them.

"The alibi of accused that he was at his father's cell at Camp Makabulos, Tarlac, Tarlac the whole day from 9:00 in the morning to 8:30 o'clock in the evening is unconvincing, not only is the alibi not credible, also there are inconsistencies on the testimony of the accused as against the testimony of his father who testified of the accused's whereabouts on the date and time of the commission of the crime. Accused, on his direct testimony testified that he went to see the late former Tarlac Governor Federico Peralta on January 3, 1986 at 10:00 o'clock in the morning, while on cross examination, he stated that it was on January 4, 1986 that he went to see the late governor. Accused likewise testified he saw former Bamban Mayor Pedro Mendiola on the way home on January 3, 1986 at about 8:30 in the evening while his father testified that on January 3, 1986, his son, the accused Rodolfo Patawaran with former Bamban Mayor Pedro Mendiola visited him and the two went to see former Tarlac Governor Federico Peralta."<sup>[7]</sup>

The accused now assails the decision of the Trial Court assigning the following as errors of the court below:

THE LOWER COURT ERRED

## **I**

IN BASING ITS DECISION OF CONVICTION SOLELY OF (SIC) THE DIRECT TESTIMONIES OF THE PROSECUTION WITNESSES WITHOUT TAKING INTO CONSIDERATION THE CROSS EXAMINATIONS MADE BY THE DEFENSE CASTING DOUBTS AS TO THE CREDIBILITY OF ITS WITNESSES ESPECIALLY THE ALLEGED EYEWITNESS:

## **II**

IN NOT BELIEVING THE TESTIMONY OF ACCUSED-APPELLANT AS CORROBORATED BY HIS WITNESSES:

## **III**

IN TAKING INTO CONSIDERATION THE ESCAPE OF ACCUSED-APPELLANT AS AN INDICATION OF GUILT.<sup>[8]</sup>

The Court agrees with the trial court that there is sufficient basis for the ruling that the accused was responsible for the death of the deceased Martin Panlican. The time-tested rule is that findings and conclusions of the trial court on the credibility of

witnesses enjoy a badge of respect for the reason that the trial courts have the advantage of observing the demeanor and manner of the witnesses as they testify.<sup>[9]</sup>

The eyewitness account of Jose Ortiz telling how the accused killed Panlican was made in a straightforward manner and without any serious inconsistencies that could discredit the witness. In this regard, it has been held that an accused can be convicted on the strength of the testimony of a single eyewitness, if such testimony is credible and positive and produces a conviction beyond reasonable doubt,<sup>[10]</sup> more so when there is no indication of a sinister scheme to prevaricate.<sup>[11]</sup>

Although the defense points to certain inconsistencies in Jose Ortiz's testimony, these are only in minor areas and do not affect the integral parts thereof, i.e., in the relation of the crime itself and in the identification of the accused as the assailant. Inconsistencies on minor details do not impair the credibility of witnesses where there is consistency in relating the principal occurrence and positive identification of the assailant.<sup>[12]</sup>

The testimonies of Engracio Dingle and Alberto Arellano lend support to the veracity of the testimony of Jose Ortiz inasmuch as they place the accused proximately within the place and time when the deceased was killed. When the testimony of a lone witness to a killing is corroborated in its material points by the testimonies of other witnesses, the same becomes a formidable wall of evidence, sufficient to convict the accused, if not convincingly breached. As long as the testimonies of the witnesses corroborate each other on their material points, the minor inconsistencies therein cannot destroy their credibility.<sup>[13]</sup> Indeed slight variations in the testimonies as to minor and inconsequential details or collateral matters do not affect their credibility, as said variations, in fact are indicative of truth and slight contradictions even serve to strengthen the sincerity of a witness' testimony that it was not rehearsed.<sup>[14]</sup>

Against this formidable wall, the accused's defense of alibi, already weak in itself, becomes more flimsy and even less credible in the light of gross inconsistencies in the evidence alleged to establish the same. Moreover, the defense of alibi cannot stand against the positive identification by the prosecution witness of the accused as the author of the crime,<sup>[15]</sup> as we have earlier established.

The essential requisites in order that the defense of alibi may be appreciated are: (a) to prove his presence at another place at the time of the perpetration of the offense and (b) to demonstrate that it would thus be physically impossible for him to be at the scene of the crime.<sup>[16]</sup> The rule is likewise settled that for the defense of alibi to prosper, the requirement of time and place must be strictly met.<sup>[17]</sup>

In this instance, there is much left to the imagination in establishing the certainty of the absence of the accused from the scene of the crime at the time it was committed.

As observed by the trial court:

"As to the testimony of the accused himself and his father, the testimonies are so grossly inconsistent and cannot be given credit by the Court. For one, the father alleged that the accused arrived with the ex-Bamban Mayor Pedro Mendiola at about 8:00 to 9:00 o'clock in the morning on January 3, 1986 to visit him in his detention cell. Whereas accused's testimony tends to show that when he left his father's cell between 8:00 to 8:30 P.M., ex-Mayor Mendiola passed by as he was waiting for a ride to go home."

Even the accused's own testimony, taken alone, reveals important discrepancies as to the accused's whereabouts and companions on January 3, 1986. On September 20, 1990, the accused clearly testified on direct examination that from Camp Makabulos, he went to see Tarlac Governor Peralta on January 3, 1996.

"ATTY. DE JESUS

Q Besides that, what else did you do on that date of January 3, 1986?

A After my lawyer had given me assistance sir, I went to Governor Peralta.

Q And that was on January 3, 1986, is that correct?

A Yes, sir.

Q What time, Mr. Witness, did you see the Governor of Tarlac on January 3, 1986?

A If I am not mistaken that was between 10:00 o'clock to 10:30 o'clock, sir, in the morning.

Q And were you able to talk to that particular Governor?

A Yes sir.

xxx"

However, on cross-examination on October 18, 1990, the accused corrected himself and told the court that it was on the following day, January 4, 1986, that he went to see Governor Peralta.

"ATTY. CAINGAT:

Q Now, during all that time that you were at Camp Makabulos, was it not possible for you to have left Camp Makabulos in a private motor vehicle?

A No, sir.

Q In other words, what you want this Court to understand is that from the time that you saw Governor Peralta up to the time that you left Camp Makabulos at around 8:20 to 8:30 o'clock in the evening, you never left Camp Makabulos?

A The following day was the time I went to see Governor Peralta, sir.

Q So, it was on January 4, 1986 that you saw Governor Peralta not on January 3?